

## Message Text

UNCLASSIFIED

PAGE 01 THE HA 03083 01 OF 02 120712Z

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ACTION EB-11

INFO OCT-01 EUR-25 ADP-00 CAB-09 CIAE-00 COME-00 DODE-00

INR-10 NSAE-00 RSC-01 FAA-00 L-03 SS-15 NSC-10 RSR-01

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R 111620Z JUL 73

FM AMEMBASSY THE HAGUE

TO SECSTATE WASHDC 1643

UNCLAS SECTION 1 OF 2 THE HAGUE 3083

E.O. 11652: N/A

TAGS: ETRN NL

SUBJECT: CIVAIR - CHARTER UNDERSTANDING

REF THE HAGUE 3044

1. EXCHANGE OF NOTES DATED AND COMPLETED 11 JULY. TEXTS FOLLOW:

2. EMBASSY NOTE NO. 42 TO MFA:

EXCELLENCY: I HAVE THE HONOR TO REFER TO DISCUSSIONS BETWEEN DELEGATIONS OF THE UNITED STATES OF AMERICA AND THE KINGDOM OF THE NETHERLANDS WHICH TOOK PLACE AT THE HAGUE ON FEBRUARY 5 AND 6, 1973 WITH REGARD TO PROCEDURES FOR IMPLEMENTING AND ENFORCING THE RULES ADOPTED FOR NEW ADVANCE CHARTERS.

IT IS MY UNDERSTANDING THAT THE DELEGATIONS AGREED ON FEBRUARY 6 TO REFER TO THEIR RESPECTIVE GOVERNMENTS A MEMORANDUM OF UNDERSTANDING INITIALED IN THE HAGUE AS A RESULT OF THE DISCUSSIONS, THE TEXT OF WHICH, INCORPORATING THE AGREED AMENDMENTS, IS ENCLOSED AS AN ANNEX TO THIS NOTE.

I HAVE THE HONOR TO INFORM YOUR EXCELLENCY THAT THE UNITED STATES GOVERNMENT AGREES TO THE PROVISIONS OF THE ENCLOSED MEMORANDUM OF UNDERSTANDING AND TO PROPOSE THAT, IF THE GOVERNMENT OF THE KONGDOM OF THE NETHERLANDS ALSO AGREES THERETO, THIS NOTE, TOGETHER WITH THE MEMORANDUM OF UNDERSTANDING, AND YOUR REPLY TO UNCLASSIFIED

UNCLASSIFIED

PAGE 02 THE HA 03083 01 OF 02 120712Z

THAT EFFECT, SHALL CONSTITUTE AN AGREEMENT BETWEEN OUR TWO

GOVERNMENTS TO BE PROVISIONALLY APPLIED AS FROM THE DATE OF YOUR EXCELLENCY'S NOTE IN REPLY AND TO ENTER FORMALLY INTO FORCE ON THE DATE OF RECEIPT BY THE GOVERNMENT OF THE UNITED STATES OF A NOTIFICATION FROM THE NETHERLANDS GOVERNMENT THAT THE APPROVAL CONSTITUTIONALLY REQUIRED IN THE KINGDOM OF THE NETHERLANDS HAS BEEN OBTAINED.

IT IS UNDERSTOOD THAT THE PROVISIONS OF THIS AGREEMENT SHALL, WITH RESPECT TO THE KINGDOM OF THE NETHERLANDS, APPLY TO THE TERRITORY IN EUROPE ONLY. IT IS FURTHER UNDERSTOOD THAT THE DURATION OF THIS AGREEMENT AND THE CONDITIONS OF TERMINATION THEREOF SHALL CONFORM TO THE TERMS SET FORTH IN THE MEMORANDUM OF UNDERSTANDING.

ACCEPT, EXCELLENCY, THE RENEWED ASSURANCES OF MY HIGHEST CONSIDERATION. (SIGNED: CHARLES R. TANGUY, CHARGE D'AFFAIRES AD INTERIM)

3. ENCLOSED MEMORANDUM OF UNDERSTANDING:

REPRESENTATIVES OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS HAVE DISCUSSED THE

CONDITIONS GOVERNING TRAVEL GROUP CHARTER (TGC) FLIGHTS AND ADVANCE BOOKING CHARTER (ABC) FLIGHTS BETWEEN THE UNITED STATES AND THE KINGDOM OF THE NETHERLANDS (THE EUROPEAN PART ONLY), AND HAVE CONCLUDED THAT EACH COUNTRY'S RULE FORMULATION CONTAINS A NUMBER OF IMPORTANT ELEMENTS SPECIFICALLY RELATED TO THE DISSIMILAR MARKETING CONDITIONS, INTERNAL LEGAL SITUATION AND ENFORCEMENT STRUCTURE OF EACH COUNTRY. IN OTHER RESPECTS THE MAJOR ASPECTS OF THE ABC AND TGC RULES ARE NEARLY IDENTICAL, AND THE RULES ARE DECIDEDLY "ADVANCE CHARTER" RULES IN THE TRANSATLANTIC CONNOTATION OF THE TERM.

WITH REGARD TO THE MAJOR ELEMENTS RELATED TO THE DISSIMILAR MARKETING CONDITIONS, INTERNAL LEGAL SITUATION, AND ENFORCEMENT STRUCTURE OF EACH COUNTRY, IT APPEARED TO BE IMPOSSIBLE FOR ORGANIZERS

OR CARRIERS OF EITHER COUNTRY TO ACHIEVE SIMULTANEOUS CONFORMITY WITH THE RULES OF BOTH COUNTRIES ON PARTICULAR FLIGHTS. ACCORDINGLY, THE PRACTICAL SOLUTION FOR THE TIME BEING WHICH WILL BEST SERVE THE PUBLIC INTEREST IN THE OPERATION OF "ADVANCE CHARTERS--TGC/ABCS",  
UNCLASSIFIED

UNCLASSIFIED

PAGE 03 THE HA 03083 01 OF 02 120712Z

PARTICULARLY IN THE TRANSATLANTIC MARKET, WILL BE THAT TRAFFIC CONFORMING WITH THE ADVANCE CHARTER RULES OF THE COUNTRY OF ORIGIN OF THE TRAFFIC SHOULD BE ACCEPTED AS CHARTERWORTHY BY THE OTHER COUNTRY.

THIS MEMORANDUM SETS FORTH THE AGREED REGULATORY PROCEDURES TO GIVE EFFECT TO THIS CONCEPT, AS WELL AS PARTICULAR ACTIONS EACH WILL UNDERTAKE, FOR THE PERIOD ENDING DECEMBER 31, 1975. THIS UNDER-

STANDING MAY BE TERMINATED AT THE END OF ANY CALENDAR YEAR, PROVIDED AT LEAST THREE MONTHS' PRIOR NOTICE HAS BEEN GIVEN, OR AT SUCH TIME AS THIS UNDERSTANDING MAY BE SUPERSEDED BY A GENERAL AGREEMENT ON NON-SCHEDULED AIR SERVICES (INCLUDING "ADVANCE CHARTER" TGCS/ABCS). (FOOTNOTE 1/) THIS UNDERSTANDING MAY ALSO BE TERMINATED IMMEDIATELY UPON NOTICE TO THE OTHER PARTY AT SUCH TIME AS THERE MAY BE NO AGREEMENT IN FORCE ON FARES AND RATES ON SCHEDULED AIR

SERVICES BETWEEN THE UNITED STATES AND THE NETHERLANDS OR AT SUCH TIME AS EITHER PARTY TERMINATES OR ABANDONS THE ADVANCE CHARTER REGULATION WHICH WAS THE BASIS FOR ITS ENTRY INTO THIS UNDERSTANDING.

AS AGREED PROCEDURES FOR MUTUAL IMPLEMENTATION AND ENFORCEMENT OF "ADVANCE CHARTER" REGULATIONS, THE REGULATORY AUTHORITIES OF EACH PARTY SHALL:

(1) WITHOUT PREJUDICE TO OTHERWISE AUTHORIZED CHARTER OPERATIONS, ACCEPT AS CHARTERWORTHY ADVANCE CHARTER TRANSATLANTIC TRAFFIC (A) ORIGINATED IN THE TERRITORY OF THE OTHER PARTY AND OPERATED PURSUANT TO THE "ADVANCE CHARTER" (TGC OR ABC) (FOOTNOTE 2/) RULES OF THAT PARTY, AND (B) ORIGINATED OUTSIDE THE TERRITORY OF EITHER PARTY AND OPERATED PURSUANT TO "ADVANCE CHARTER" RULES WHICH THE PARTY TO WHOSE TERRITORY THE CHARTER FLIGHTS IS OPERATED HAS RECOGNIZED.

(2) NOT REQUIRE THE ROUTINE FILING WITH THEM OF PASSENGER LISTS AND OTHER DOCUMENTS FOR CHARTER FLIGHTS (A) ORIGINATED IN THE TERRITORY OF THE OTHER PARTY AND OPERATED PURSUANT TO THE "ADVANCE CHARTER" RULES OF THAT PARTY, AND (B) ORIGINATED OUTSIDE THE TERRITORY OF EITHER PARTY AND OPERATED PURSUANT TO "ADVANCE CHARTER" RULES WHICH THE PARTY TO WHOSE TERRITORY THE CHARTER FLIGHT IS OPERATED HAS RECOGNIZED.

(3) ON REQUEST OF THE REGULATORY AUTHORITIES OF THE OTHER PARTY,  
UNCLASSIFIED

UNCLASSIFIED

PAGE 04 THE HA 03083 01 OF 02 120712Z

TRANSMIT PASSENGER LISTS AND OTHER APPROPRIATE DOCUMENTS TO THE REGULA-

TORY AUTHORITIES OF THAT PARTY TO FACILITATE THE CONDUCT BY SUCH AUTHORITIES OF PREFLIGHT SPOT CHECKS OF FLIGHTS OPERATED PURSUANT TO THE TRANSMITTING PARTY'S "ADVANCE CHARTER" RULES, ESPECIALLY IF ON SUCH FLIGHTS GROUPS OF DIFFERING CHARACTER ARE INCLUDED, AND ALSO IN THE CASE OF OPEN-JAW FLIGHTS.

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PAGE 01 THE HA 03083 02 OF 02 120636Z

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ACTION EB-11

INFO OCT-01 EUR-25 ADP-00 CAB-09 CIAE-00 COME-00 DODE-00

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R 111620Z JUL 73

FM AMEMBASSY THE HAGUE

TO SECSTATE WASHDC 1644

UNCLAS SECTION 2 OF 2 THE HAGUE 3083

(4) TRANSMIT TO THE REGULATORY AUTHORITIES OF THE OTHER PARTY, FOR APPROPRIATE ENFORCEMENT OF THE LATTER'S RULES, EVIDENCE OBTAINED OF POSSIBLE RULE VIOLATIONS ON FLIGHTS OPERATED PURSUANT TO THE "ADVANCE CHARTER" RULES OF THAT PARTY.

(5) CONDUCT SPOT CHECKS, FROM TIME TO TIME, AND POST FLIGHT REVIEWS OF "ADVANCE CHARTER" FLIGHTS OPERATED PURSUANT TO THEIR RULES, TAKE APPROPRIATE ACTION WHEN VIOLATIONS ARE OBSERVED, AND REGULATE WITHIN THE LIMITS OF THEIR RESPECTIVE LAWS AND REGULATIONS THE CONDUCT OF CHARTER ORGANIZERS OPERATING ON THEIR TERRITORY.

(6) REQUIRE THE FILING OF TARIFFS, AND ENFORCE CONFORMITY TO TARIFF RULES, ON ALL FLIGHTS OPERATED IN ACCORDANCE WITH TGC OR ABC RULES.

(7) CONSULT WITH THE APPROPRIATE AUTHORITIES OF THE OTHER PARTY ABOUT UNECONOMICAL, UNREASONABLE, OR UNJUSTLY DISCRIMINATORY CHARTER RATES CHARGED OR PROPOSED TO BE CHARGED FOR SERVICES CONDUCTED PURSUANT TO THIS UNDERSTANDING AND, IN THE EVENT OF NO RESOLUTION BY CONSULTATION, MAY TAKE APPROPRIATE ACTION TO PREVENT THE

INAUGURATION OR CONTINUATION OF UNECONOMICAL, UNREASONABLE, OR UNJUSTLY DISCRIMINATORY RATES.

(8) STAND READY TO MODIFY THEIR "ADVANCE CHARTER" RULES SHOULD IT BECOME NECESSARY IN ORDER TO PREVENT UNDUE DIVERSION FROM THE

UNCLASSIFIED

PAGE 02 THE HA 03083 02 OF 02 120636Z

SCHEDULED AIR SERVICES OF EACH BETWEEN THEIR TERRITORIES.

(9) ACCORD LIBERAL TREATMENT TO APPLICATIONS FOR "ADVANCE CHARTER" FLIGHTS BY THE CARRIERS OF THE OTHER PARTY UNDER TGC OR ABC RULES.

(10) STRIVE FOR COMMONALITY OF RULES FOR "ADVANCE CHARTER" TRAFFIC IN ORDER TO FACILITATE THE CONCLUSION OF BILATERAL AGREEMENTS ON NONSCHEDULED AIR SERVICES.

(11) ACCEPT AS CHARTERWORTHY ANY BONA FIDE "PRIOR AFFINITY" CHARTER TRAFFIC CONFORMING TO THE RULES OF BOTH PARTIES.

(12) IMMEDIATELY TAKE THE ADMINISTRATIVE MEASURES NECESSARY UNDER THEIR OWN LAWS TO AUTHORIZE FOR THE DURATION OF THIS AGREEMENT AND OF ANY ARRANGEMENT WHICH MAY SUPERSEDE IT THE OPERATION OF FLIGHTS WHICH ORIGINATE IN THE TERRITORY OF THE OTHER PARTY AND CONFORM TO ITS ADVANCE CHARTER RULES.

FOOTNOTES:

1/ IT IS CONTEMPLATED THAT SUCH AGREEMENT WILL ALSO DEAL WITH THE OPERATION OF INCLUSIVE TOUR CHARTERS. IN THE MEANTIME, THIS MEMORANDUM WILL NOT PRECLUDE THE AUTHORIZATION OF ON- AND OFF-ROUTE ITCS BY EITHER OF THE PARTIES.

2/ TGC MEANS THOSE RULES OF THE UNITED STATES EMBODIED IN PART 372A OF THE SPECIAL REGULATIONS OF THE UNITED STATES CIVIL AERONAUTICS BOARD, AND ANY AMENDMENTS THERETO. ABC MEANS THOSE RULES OF THE NETHERLANDS EMBODIED IN THE DECREE OF THE MINISTER OF TRANSPORT, WATER CONTROL AND PUBLIC WORKS OF 27 MARCH 1973, NO. JUR/L 21516, CIVIL AVIATION DEPARTMENT, AND ANY AMENDMENTS THERETO.

4. MFA NOTE TO EMBASSY:

SIR: I HAVE THE HONOUR TO ACKNOWLEDGE RECEIPT OF YOUR NOTE OF 11 JULY 1973, WITH ATTACHED MEMORANDUM OF UNDERSTANDING, WHICH READS AS FOLLOWS: (TEXT OF U.S. NOTE)

I HAVE THE HONOUR TO INFORM YOU THAT THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AGREES TO THE TERMS OF THE MEMORANDUM OF UNCLASSIFIED

UNCLASSIFIED

PAGE 03 THE HA 03083 02 OF 02 120636Z

UNDERSTANDING AND ALSO AGREES THAT YOUR NOTE, TOGETHER WITH THE MEMORANDUM OF UNDERSTANDING AND THIS REPLY, SHALL CONSTITUTE AN AGREEMENT BETWEEN OUR TWO GOVERNMENTS WHICH SHALL BE PROVISIONALLY APPLIED AS FROM THE DATE OF THIS NOTE AND SHALL ENTER INTO FORCE AS STATED IN YOUR NOTE.

I HAVE THE HONOUR, FURTHERMORE, TO REQUEST THAT, THROUGH YOUR GOOD OFFICES, THE UNITED STATES GOVERNMENT TAKE NOTE OF THE VIEW OF THE NETHERLANDS GOVERNMENT THAT A SATISFACTORY PRACTICE SHOULD

BE FOLLOWED WITH REGARD TO THE OPERATION OF ON- AND OFF-ROUTE  
INCLUSIVE TOUR CHARTERS IN BOTH DIRECTIONS.

PLEASE ACCEPT, SIR, THE ASSURANCE OF MY HIGH CONSIDERATION.  
(SIGNED, M. VAN DER STOEL, MINISTER OF FOREIGN AFFAIRS, THE HAGUE)  
TANGUY

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## Message Attributes

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